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# PATENT APPLICATION

# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q67327

Yong-jun LIM

Appln. No.: 10/046,912

Group Art Unit: 2184

Confirmation No.: 3408

Examiner: Not Yet Assigned

Filed: January 17, 2002

For: METHOD OF UPGRADING SOFTWARE IN A NETWORK ENVIRONMENT AND A

NETWORK DEVICE FOR PERFORMING THE SAME

# STATEMENT UNDER 37 C.F.R. § 1.704(d)

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

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OCT 2 3 2003

Sir:

**Technology Center 2100** 

The undersigned hereby states, upon information and belief:

That each item of information contained in the Information Disclosure Statement filed concurrently herewith was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned after making a reasonable inquiry, that the communication was not received by any individual designated in 37 C.F.R. § 1.56(c) more than thirty days prior to the filing of said Information Disclosure Statement.

Respectfully submitted,

Registration No. 23,063

SUGHRUE MION, PLLC

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WASHINGTON OFFICE

23373
CUSTOMER NUMBER

Date: October 22, 2003

# PATENT APPLICATION

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METHOD OF UPGRADING SOFTWARE IN A NETWORK ENVIRONMENT AND A

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STATEMENT UNDER 37 C.F.R. § 1.97(e)

Commissioner for Patents OCT 2 3 2003

P.O. Box 1450 Alexandria, VA 22313-1450

Technology Center 2100

Sir:

For:

The undersigned hereby states, upon information and belief:

That each item of information contained in the Information Disclosure Statement filed concurrently herewith was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of said Information Disclosure Statement.

Respectfully submitted,

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Darryl Mexic

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Docket No: Q67327

Yong-jun LIM

Appln. No.: 10/046,912

Group Art Unit: 2184

Confirmation No.: 3408

Examiner: Not Yet Assigned

Filed: January 17, 2002

For:

METHOD OF UPGRADING SOFTWARE IN A NETWORK ENVIRONMENT AND A

NETWORK DEVICE FOR PERFORMING THE SAME

# INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. §§ 1.97 and 1.98

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OCT 2 3 2003

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Technology Center 2100

Sir:

In accordance with the duty of disclosure under 37 C.F.R. § 1.56, Applicant hereby notifies the U.S. Patent and Trademark Office of the document which is listed on the attached PTO/SB/08 A & B (modified) form and/or listed herein and which the Examiner may deem material to patentability of the claims of the above-identified application.

A copy of the listed document is submitted herewith.

The present Information Disclosure Statement is being filed: (1) No later than three months from the application's filing date; (2) Before the mailing date of the first Office Action on the merits (whichever is later); or (3) Before the mailing date of the first Office Action after filing a request for continued examination (RCE) under §1.114, and therefore, no Statement under 37 C.F.R. § 1.97(e) or fee under 37 C.F.R. § 1.17(p) is required. Nevertheless, since a Statement can be made, a Statement is submitted herewith.

INFORMATION DISCLOSURE STATEMENT

U.S. Appln. No.: 10/046,912

ATTORNEY DOCKET NO. Q67327

The present Information Disclosure Statement is being filed thirty days or fewer from the

communication from a foreign patent office and a Statement Under 37 C.F.R. §1.704(d) is attached.

In compliance with the concise explanation requirement under 37 C.F.R. § 1,98(a)(3) for

foreign language documents, Applicant encloses herewith a copy of a Communication from a foreign

patent office in a counterpart application citing such documents, together with an English-language

version (if not already included) of that portion of the Communication indicating the degree of

relevance found by the foreign patent office. Also, the submission of the attached English language

abstract along with Korean Patent Publication No.2002-0041005 constitutes a concise statement

of relevance of the reference.

The submission of the listed document is not intended as an admission that any such

document constitutes prior art against the claims of the present application. Applicant does not

waive any right to take any action that would be appropriate to antedate or otherwise remove any

listed document as a competent reference against the claims of the present application.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee

and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to

said Deposit Account. A duplicate copy of this paper is attached.

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Date: October 22, 2003

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Substitute for Form 1449 A & B/PTO

# INFORMATION DISCLOSURED STATEMENT BY APPLICANT

(use as many sheets as necessary)

Sheet	1	of	1

Complete if Known				
Application Number	10/046,912			
Confirmation Number	3408			
Filing Date	January 17, 2002			
First Named Inventor	Yong-jun LIM			
Art Unit	2184			
Examiner Name	Not Yet Assigned			
Attorney Docket Number	Q67327			

U.S. PATENT DOCUMENTS					
Examiner Cite Initials* No.	Cite	Document 1	Document Number		
	No.1	Number	Kind Code <sup>2</sup> (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document
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FOREIGN PATENT DOCUMENTS							
Examiner Cite Initials* No.1 C	Foreign Patent Document			Publication Date	Name of Patentee or		
	Country Code <sup>3</sup>	Number <sup>4</sup>	Kind Code <sup>5</sup> (if known)	MM-DD-YYYY	Applicant of Cited Document	Translation <sup>6</sup>	
		KR	2002- 0041005	A	5/31/2002	LG Electronics Inc.	Abstract
				<del> </del>			

NON PATENT LITERATURE DOCUMENTS				
		Cite Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine,		

Examiner Signature		Date Considered	

<sup>\*</sup>EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>&</sup>lt;sup>1</sup>Applicant's unique citation designation number (optional). <sup>2</sup>See Kind Codes of USPTO Patent Documents at www.uspto.gov, MPEP 901.04 or in the comment box of this document. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO Standard ST. 3). <sup>4</sup>For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup>Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. <sup>6</sup> Applicant is to indicate here if English language Translation is attached.



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Seocho-dong, Seocho-ku, Seoul, Korea

OCT 23 2003

Application No.:

10-2001-0038804

Technology Center 2100

Title of the Invention: Method of Upgrading Software in a Network Environment and a

Network Device for Performing the Same

According to Article 63 of the Korean Patent Law, the applicant is notified that the present application has been rejected for the reasons given below. Any Argument or Amendment which the applicant may wish to submit, must be submitted by November 24, 2003. An indefinite number of one-month extensions in the period for submitting a response may be obtained upon request, however no official confirmation of the acceptance of a request for an extension will be issued.

### Reasons

This application is considered as the same as the invention described in a specification and drawings initially attached to Korean Application No. 2000-70722 that was filed before this application was filed and published thereafter (the invertors and applicants are different between the two applications), and thus this application is rejected according to Article 29(3) of the Korean Patent Law.

1. The invention described in the claims 1-12 directs to a structure for operating necessary network devices according to whether a failure occurs while software is being upgraded. The cited reference, Korean Patent Publication No. 2002-41005 (filed on November 25, 2000) discloses a structure for checking whether a failure occurs during a software upgrade and restoring the failure using memory devices. Based on the above, the

present invention is considered to be similar to the cited reference.

Enclosure: Korean Patent Publication No. 2002-41005 (filed on November 25, 2000)

24 September 2003

Seung-cho Kim/Examiner Electronics Part Examination Division 4 Korean Industrial Property Office

출력 일자: 2003/9/25

발송번호: 9-5-2003-036648017

발송일자 : 2003.09.24

제출기일: 2003.11.24

수신 : 서울 서초구 서초3동 1571-18 청화빌딩 2

층(리&목특허법률사무소)

이영필 귀하

137-874

百姓的

2003. 9.25

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# 특허청 의견제출통지서

출원인

명칭 삼성전자주식회사 (출원인코드: 119981042713)

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출원번호

10-2001-0038804

발명의 명칭

네트워크 환경에 있어서 소프트웨어 업그레이드 방법 및그에 따른 네

트워크 디바이스

이 출원에 대한 심사결과 아래와 같은 거절이유가 있어 특허법 제63조의 규정에 의하여 이를 통지하오니 의견이 있거나 보정이 필요할 경우에는 상기 제출기일까지 의견서[특허법시행규칙 별지 제25호의2서식] 또는/및 보정서[특허법시행규칙 별지 제5호서식]를 제출하여 주시기 바랍니다.(상기제출기일에 대하여 매회 1월 단위로 연장을 신청할 수 있으며, 이 신청에 대하여 별도의 기간연장 승인통지는 하지 않습니다.)

# [이 유]

이 출원발명은 그 출원한 날전에 한 출원으로서 이 출원후에 공개된 2000년 출원 제 70722호의 출 원서에 최초로 첨부한 명세서 또는 도면에 기재된 발명과 동일한 것이므로 (이 출원의 발명자가 그 출원전에 출원한 상기 발명자와 동일하지 않으며 또한 이 출원시 출원인이 그 출원전에 출원한 상 기 특허출원의 출원인과 동일하지 않음) 특허법 제29조제3항의 규정에 의하여 특허를 받을 수 없습 니다.

# [11540]

본원 발명의 청구범위 제1항 내지 제12항은 소프트웨어를 업그레이드하는 동안 장애가 발생하는지의 여부에 따라 필요한 네트워크 디바이스를 운영하도록 하는 구성은 첨부된 인용참증인 한국 공개특허 2002-41005(2000.11.25 출원)호의 메모리를 이용하여 소프트웨어 업그레이드시에 장애가 발생하는 경우 이를 점검하여 복구할 수 있도록 하는 구성과 동일합니다.

### [첨 부]

첨부1 한국공개특허 2002-41005(2000.11.25출원) 끝.

2003.09.24

특허청

심사4국

전자심사담당관실

심사관 김승조(

0116094

출력 일자: 2003/9/25

# <<안내>>

문의사항이 있으시면 🗗 0421)481-5675 로 문의하시기 바랍니다.

특허청 직원 모두는 깨끗한 특허행정의 구현을 위하여 최선을 다하고 있습니다. 만일 업무처리과정에서 직원의 부조리행 위가 있으면 신고하여 주시기 바랍니다.

▶ 홈페이지(www.kipo.go.kr)내 부조리신고센터